

possible access to them. Toward that end, the resolution provides that they be covered by Federal health care programs and group and individual health plans.

Representatives STEVE ISRAEL, and ROSA DELAUNO, both tireless leaders on cancer research and health issues, introduced this resolution, in the House of Representatives. Through their efforts and bi-partisan support, H. Con. Res. 385 was passed by the House of Representatives on July 22. The resolution deserves the Senate's prompt attention, and I urge my colleagues to join me in supporting it.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4512. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4513. Mr. THOMPSON (for himself and Mr. WARNER) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4514. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 4687, to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

SA 4515. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4512.** Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 67, between lines 13 and 14 insert the following:

(10) Conducting the necessary systems testing and demonstration of infrastructure target hardening methods at the National Critical Infrastructure Testbed at the Idaho National Engineering and Environmental Laboratory.

And renumber the subsequent paragraphs as necessary.

**SA 4513.** Mr. THOMPSON (for himself and Mr. WARNER) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

On page 8, strike lines 1 through 3.

On page 9, strike lines 13 through 15.

On page 12, line 15, strike “,” with the Director.”.

On page 12, strike lines 18 through 26 and insert the following:

(4) To make budget recommendations relating to the Strategy, border and transpor-

tation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

On page 77, lines 22 and 23, strike “,” the Office,” after “OSTP”.

On page 103, line 5, strike “amended—” and all that follows through line 12 and insert the following: “amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting ‘homeland security’ after ‘national security.’”.

On page 156, lines 15 and 16, strike “,” the Office.”.

On page 158, line 9, strike “,” the Office.”.

On page 162, line 11, strike “and the Director”.

On page 162, line 17, strike “and Office”.

On page 173, strike line 15 and all that follows through page 197, line 19.

**SA 4514.** Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 4687, to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life; as follows:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “National Construction Safety Team Act”.

#### SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.

(a) **ESTABLISHMENT.**—The Director of the National Institute of Standards and Technology (in this Act referred to as the “Director”) is authorized to establish National Construction Safety Teams (in this Act referred to as a “Team”) for deployment after events causing the failure of a building or buildings that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. To the maximum extent practicable, the Director shall establish and deploy a Team within 48 hours after such an event. The Director shall promptly publish in the Federal Register notice of the establishment of each Team.

(b) **PURPOSE OF INVESTIGATION; DUTIES.**—

(1) **PURPOSE.**—The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States.

(2) **DUTIES.**—A Team shall—

(A) establish the likely technical cause or causes of the building failure;

(B) evaluate the technical aspects of evacuation and emergency response procedures;

(C) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to subparagraphs (A) and (B); and

(D) recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.

(c) **PROCEDURES.**—

(1) **DEVELOPMENT.**—Not later than 3 months after the date of the enactment of this Act, the Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall develop procedures for the establishment and deployment of Teams. The Director shall update such procedures as appropriate. Such procedures shall include provisions—

(A) regarding conflicts of interest related to service on the Team;

(B) defining the circumstances under which the Director will establish and deploy a Team;

(C) prescribing the appropriate size of Teams;

(D) guiding the disclosure of information under section 8;

(E) guiding the conduct of investigations under this Act, including procedures for providing written notice of inspection authority under section 4(a) and for ensuring compliance with any other applicable law;

(F) identifying and prescribing appropriate conditions for the provision by the Director of additional resources and services Teams may need;

(G) to ensure that investigations under this Act do not impede and are coordinated with any search and rescue efforts being undertaken at the site of the building failure;

(H) for regular briefings of the public on the status of the investigative proceedings and findings;

(I) guiding the Teams in moving and preserving evidence as described in section 4(a)(4), (b)(2), and (d)(4);

(J) providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures, including research conducted under the Earthquake Hazards Reduction Act of 1977; and

(K) regarding such other issues as the Director considers appropriate.

(2) **PUBLICATION.**—The Director shall publish promptly in the Federal Register final procedures, and subsequent updates thereof, developed under paragraph (1).

#### SEC. 3. COMPOSITION OF TEAMS.

Each Team shall be composed of individuals selected by the Director and led by an individual designated by the Director. Team members shall include at least 1 employee of the National Institute of Standards and Technology and shall include other experts who are not employees of the National Institute of Standards and Technology, who may include private sector experts, university experts, representatives of professional organizations with appropriate expertise, and appropriate Federal, State, or local officials. Team members who are not Federal employees shall be considered Federal Government contractors.

#### SEC. 4. AUTHORITIES.

(a) **ENTRY AND INSPECTION.**—In investigating a building failure under this Act, members of a Team, and any other person authorized by the Director to support a Team, on display of appropriate credentials provided by the Director and written notice of inspection authority, may—

(1) enter property where a building failure being investigated has occurred, or where building components, materials, and artifacts with respect to the building failure are located, and take action necessary, appropriate, and reasonable in light of the nature of the property to be inspected to carry out the duties of the Team under section 2(b)(2)(A) and (B);

(2) during reasonable hours, inspect any record (including any design, construction, or maintenance record), process, or facility related to the investigation;

(3) inspect and test any building components, materials, and artifacts related to the building failure; and

(4) move such records, components, materials, and artifacts as provided by the procedures developed under section 2(c)(1).

(b) **AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.**—An inspection, test, or other action taken by a Team under this section shall be conducted in a way that—

(1) does not interfere unnecessarily with services provided by the owner or operator of the building components, materials, or artifacts, property, records, process, or facility; and

(2) to the maximum extent feasible, preserves evidence related to the building failure, consistent with the ongoing needs of the investigation.

(c) **COORDINATION.**—

(1) **WITH SEARCH AND RESCUE EFFORTS.**—A Team shall not impede, and shall coordinate its investigation with, any search and rescue efforts being undertaken at the site of the building failure.

(2) **WITH OTHER RESEARCH.**—A Team shall coordinate its investigation, to the extent practicable, with qualified researchers who are conducting engineering or scientific (including social science) research relating to the building failure.

(3) **MEMORANDA OF UNDERSTANDING.**—The National Institute of Standards and Technology shall enter into a memorandum of understanding with each Federal agency that may conduct or sponsor a related investigation, providing for coordination of investigations.

(4) **WITH STATE AND LOCAL AUTHORITIES.**—A Team shall cooperate with State and local authorities carrying out any activities related to a Team's investigation.

(d) **INTERAGENCY PRIORITIES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2) or (3), a Team investigation shall have priority over any other investigation of any other Federal agency.

(2) **NATIONAL TRANSPORTATION SAFETY BOARD.**—If the National Transportation Safety Board is conducting an investigation related to an investigation of a Team, the National Transportation Safety Board investigation shall have priority over the Team investigation. Such priority shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(3) **CRIMINAL ACTS.**—If the Attorney General, in consultation with the Director, determines, and notifies the Director, that circumstances reasonably indicate that the building failure being investigated by a Team may have been caused by a criminal act, the Team shall relinquish investigative priority to the appropriate law enforcement agency. The relinquishment of investigative priority by the Team shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(4) **PRESERVATION OF EVIDENCE.**—If a Federal law enforcement agency suspects and notifies the Director that a building failure being investigated by a Team under this Act may have been caused by a criminal act, the Team, in consultation with the Federal law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

**SEC. 5. BRIEFINGS, HEARINGS, WITNESSES, AND SUBPOENAS.**

(a) **GENERAL AUTHORITY.**—The Director or his designee, on behalf of a Team, may conduct hearings, administer oaths, and require, by subpoena (pursuant to subsection (e)) and otherwise, necessary witnesses and evidence as necessary to carry out this Act.

(b) **BRIEFINGS.**—The Director or his designee (who may be the leader or a member of a Team), on behalf of a Team, shall hold regular public briefings on the status of investigative proceedings and findings, including a final briefing after the report required by section 8 is issued.

(c) **PUBLIC HEARINGS.**—During the course of an investigation by a Team, the National Institute of Standards and Technology may, if the Director considers it to be in the public interest, hold a public hearing for the purposes of—

(1) gathering testimony from witnesses; and

(2) informing the public on the progress of the investigation.

(d) **PRODUCTION OF WITNESSES.**—A witness or evidence in an investigation under this

Act may be summoned or required to be produced from any place in the United States. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(e) **ISSUANCE OF SUBPOENAS.**—A subpoena shall be issued only under the signature of the Director but may be served by any person designated by the Director.

(f) **FAILURE TO OBEY SUBPOENA.**—If a person disobeys a subpoena issued by the Director under this Act, the Attorney General, acting on behalf of the Director, may bring a civil action in a district court of the United States to enforce the subpoena. An action under this subsection may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena as a contempt of court.

**SEC. 6. ADDITIONAL POWERS.**

In order to support Teams in carrying out this Act, the Director may—

(1) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code;

(2) request the use, when appropriate, of available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(3) confer with employees and request the use of services, records, and facilities of State and local governmental authorities;

(4) accept voluntary and uncompensated services;

(5) accept and use gifts of money and other property, to the extent provided in advance in appropriations Acts;

(6) make contracts with nonprofit entities to carry out studies related to purpose, functions, and authorities of the Teams; and

(7) provide nongovernmental members of the Team reasonable compensation for time spent carrying out activities under this Act.

**SEC. 7. DISCLOSURE OF INFORMATION.**

(a) **GENERAL RULE.**—Except as otherwise provided in this section, a copy of a record, information, or investigation submitted or received by a Team shall be made available to the public on request and at reasonable cost.

(b) **EXCEPTIONS.**—Subsection (a) does not require the release of—

(1) information described by section 552(b) of title 5, United States Code, or protected from disclosure by an other law of the United States; or

(2) information described in subsection (a) by the National Institute of Standards and Technology or by a Team until the report required by section 8 is issued.

(c) **PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.**—Notwithstanding any other provision of law, a Team, the National Institute of Standards and Technology, and any agency receiving information from a Team or the National Institute of Standards and Technology, shall not disclose voluntarily provided safety-related information if that information if that information is not directly related to the building failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(d) **PUBLIC SAFETY INFORMATION.**—A Team and the National Institute of Standards and Technology shall not publicly release any information it receives in the course of an investigation under this Act if the Director finds that the disclosure of that information might jeopardize public safety.

**SEC. 8. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.**

Not later than 90 days after completing an investigation, a Team shall issue a public report which includes—

(1) an analysis of the likely technical cause or causes of the building failure investigated;

(2) any technical recommendations for changes to or the establishment of evacuation and emergency response procedures;

(3) any recommended specific improvements to building standards, codes, and practices; and

(4) recommendations for research and other appropriate actions needed to help prevent future building failures.

**SEC. 9. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACTIONS.**

After the issuance of a public report under section 8, the National Institute of Standards and Technology shall comprehensively review the report and, working with the United States Fire Administration and other appropriate Federal and non-Federal agencies and organizations—

(1) conduct, or enable or encourage the conducting of, appropriate research recommended by the Team; and

(2) promote (consistent with existing procedures for the establishment of building standards, codes, and practices) the appropriate adoption by the Federal Government, and encourage the appropriate adoption by other agencies and organizations, of the recommendations of the Team with respect to—

(A) technical aspects of evacuation and emergency response procedures;

(B) specific improvements to building standards, codes, and practices; and

(C) other actions needed to help prevent future building failures.

**SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ANNUAL REPORT.**

Not later than February 15 of each year, the Director shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(1) a summary of the investigations conducted by Teams during the prior fiscal year;

(2) a summary of recommendations made by the Teams in reports issued under section 8 during the prior fiscal year and a description of the extent to which those recommendations have been implemented; and

(3) a description of the actions taken to improve building safety and structural integrity by the National Institute of Standards and Technology during the prior fiscal year in response to reports issued under section 8.

**SEC. 11. ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT AND FUNCTIONS.**—The Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall establish an advisory committee to advise the Director on carrying out this Act and to review the procedures developed under section 2(c)(1) and the reports issued under section 8.

(b) **ANNUAL REPORT.**—On January 1 of each year, the advisory committee shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(1) an evaluation of Team activities, along with recommendations to improve the operation and effectiveness of Teams; and

(2) an assessment of the implementation of the recommendations of Teams and of the advisory committee.

(c) **DURATION OF ADVISORY COMMITTEE.**—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

**SEC. 12. ADDITIONAL APPLICABILITY.**

The authorities and restrictions applicable under this Act to the Director and to Teams shall apply to the activities of the National Institute of Standards and Technology in response to the attacks of September 11, 2001.

**SEC. 13. AMENDMENT.**

Section 7 of the National Bureau of Standards Authorization Act for Fiscal Year 1986 (15 U.S.C. 281a) is amended by inserting “, or from an investigation under the National Construction Safety Team Act,” after “from such investigation”.

**SEC. 14. CONSTRUCTION.**

Nothing in this Act shall be construed to confer any authority on the National Institute of Standards and Technology to require the adoption of building standards, codes, or practices.

**SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

The National Institute of Standards and Technology is authorized to use funds otherwise authorized by law to carry out this Act.

**SA 4515.** Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Section 131 is amended by adding at the end the following:

(f) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through (8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).”;

(ii) in paragraph (4), by striking “(other than the excess fees determined by the Secretary under paragraph (5))”; and

(iii) by striking paragraph (5) and inserting the following:

“(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the ‘Customs Commercial and Homeland Security Automation Account’. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), \$350,000,000.

“(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

“(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the

amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.”.

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting “in consultation with the Secretary of Homeland Security” after “Secretary of the Treasury”;

(B) in paragraph (2)(A), by inserting “in consultation with the Secretary of Homeland Security” after “Secretary of the Treasury”;

(C) in paragraph (3)(A), by inserting “and the Secretary of Homeland Security” after “Secretary of the Treasury”;

(D) in paragraph (4)—

(i) by inserting “and the Under Secretary of Homeland Security for Border and Transportation” after “for Enforcement”; and

(ii) by inserting “jointly” after “shall pre- side”.

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107-210) is amended by striking paragraph (2).

**NOTICES OF HEARINGS/MEETINGS****COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a Committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, September 17, at 9:30 a.m. in Dirksen 366.

The Committee will conduct an oversight hearing on the Federal Energy Regulatory Commission’s Notice of Proposed Rulemaking Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design, issued July 31.

Those wishing to submit written statements on this subject should address them to the Committee on Energy and Natural Resources, Attn: Jonathan Black, United States Senate, Dirksen 364, Washington, D.C. 20510.

For further information, please call Leon Lowery at 202/224-2209 or Jonathan Black at 202/224-6722.

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a Committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, September 18, at 9:30 a.m. in SD-366.

The purpose of the hearing is to receive testimony concerning the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy; and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

Those wishing to submit written statements on this subject should address them to the Committee on Energy and Natural Resources, ATTN: Jonathan Black, 364 Dirksen Senate Office Building, Washington, D.C., 20510.

For further information, please call Jennifer Michael on 4-7143 or Jonathan Black on 4-6722.

**AUTHORITY FOR COMMITTEES TO MEET****SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE**

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine and the Subcommittee on Transportation, Infrastructure and Nuclear Safety be authorized to meet on September 9, 2002, at 2:30 p.m. on freight and intermodal transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON TRANSPORTATION INFRASTRUCTURE, AND NUCLEAR SAFETY**

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Transportation, infrastructure, and Nuclear Safety be authorized to meet jointly with the Subcommittee on Surface Transportation and Merchant Marine of the Committee on Commerce, Science, and Transportation on Monday, September 9, 2002, at 2:30 p.m. to conduct a hearing to receive testimony on freight and transportation issues. The hearing will be held in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

**NATIONAL CONSTRUCTION SAFETY TEAM ACT**

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 510, H.R. 4687.

The PRESIDING OFFICER. The clerk will report the bill by title.

A bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Madam President, today the Senate will consider H.R. 4687, the National Construction Safety Team Act. The Senate companion, S. 2496, was introduced by Senators CLINTON, SCHUMER, LIEBERMAN, and DODD, and is currently pending before the Senate Committee on Commerce, Science, and Transportation, which I chair.

At the urging of our colleagues, particularly Senator CLINTON, the committee has agreed to move the House version of the legislation in the hopes